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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/714,672

11/18/2003

Osamu Yamashita

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EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                         |  |
|------------------------------|--------------------------------------|-----------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/714,672 | <b>Applicant(s)</b><br>YAMASHITA ET AL. |  |
|                              | <b>Examiner</b><br>CHARLES SHEDRICK  | <b>Art Unit</b><br>2617                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 21-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims **21-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ramesh et al. WO 02/37889 A1, “Ramesh”**, hereinafter in view of **Palenius et al. US Patent Pub.**

**No.2004/0058650 A1, “Palenius”**, hereinafter and further in view of **Vazvan et al., US Patent No: 6,400,946, hereinafter, “Vazvan”**

Consider **claims 21 and 23**, Ramesh teaches a method and means of determining a most suitable cell **12 (Figure 1)**(i.e., Channel allocation) during network acquisition for a cellular communication device **100 (Figure 1)** based on a characteristic of signals (i.e., power measurements) received from a plurality of cells **12 (Figure 1)**(**pg.5 lines 1-5**), the signals from each cell being provided over a band of frequencies, and said method comprising: taking a series of measurements of said characteristic for each frequency of a first band(**pg. 8 lines 20-21**), so as to obtain an average measurement value of said characteristic for each frequency of said first frequency band(**pg. 3 lines 1-25**),wherein the series of measurements on said first frequency band are equally spaced in time, with equal time intervals there between(**pg. 10 lines 3-23**).

However, Ramesh does not specifically teach during the time intervals between measurements for said fist frequency band, taking a series of measurements of said characteristic for each frequency of a second frequency band.

In the same field of endeavor, Palenius teaches during the time intervals between measurements for said first frequency band, taking a series of measurements of said characteristic for each frequency of a second frequency band (i.e., see figure 2)(**paragraph 0014 and paragraph 0033**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ramesh to include during the time intervals between

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measurements for said first frequency band, taking a series of measurements of said characteristic for each frequency of a second frequency band as taught by Palenius for the purpose of efficient cell search.

However, Ramesh as modified by Palenius does not specifically teach first and second frequency bands that operate in different operating modes.

In analogous art, Vazvan teaches first and second frequency bands that operate in different operating modes (e.g., see **multimode and dual mode operation in abstract and at least col. 2 lines 17-20, col. 3 lines 40-45**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ramesh as modified by Palenius to include multimode operation for the purpose of integration and flexibility and taught by Vazvan in col. 3.

Consider **claims 22 and 24 and as applied to claims 21 and 23** respectively, Ramesh as modified by Palenius teaches the claimed invention except wherein one operation mode comprises GSM, and the other operating mode comprises UMTS.

However, in analogous art, Vazvan teaches except wherein one operation mode comprises GSM, and the other operating mode comprises UMTS (e.g., see **at least col. 1 lines 65 and col. 3 lines 24-25**)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ramesh as modified by Palenius to include wherein one operation mode comprises GSM, and the other operating mode comprises UMTS for the purpose of integration and flexibility and taught by Vazvan in col. 3.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES SHEDRICK whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harper Paul can be reached on (571)-272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617

/Charles Shedrick/  
Examiner, Art Unit 2617  
July 16, 2008